

**IN THE MATTER OF AN APPEAL BY BLOOR HOMES SOUTH WEST AGAINST  
NON-DETERMINATION BY SOUTH GLOUCESTERSHIRE COUNCIL RELATING  
TO LAND AT SODBURY ROAD, WICKWAR, SOUTH GLOUCESTERSHIRE.**

**APPLICATION REFERENCE: P22/01300/O**

**APPEAL REFERENCE: APP/P0119/W/23/3323836**

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**SOUTH GLOUCESTERSHIRE COUNCIL'S STATEMENT OF CASE**

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## **TABLE OF CONTENTS**

Introduction – Page 3  
Site and Surroundings – Page 7  
Planning Policy Context – Page 9  
Council’s Statement of Case – Page 11  
Documents list – Page 15  
Appendices – Page 15.

## **APPENDICES**

APPENDIX A – Strategic Sites Committee Report.  
APPENDIX B - Strategic Sites Committee Minutes.  
APPENDIX C – Spatial Planning Committee Report.  
APPENDIX D – Spatial Planning Committee Minutes.  
APPENDIX E – Scheme of Delegation

## 1 Introduction

1.1. This Statement of Case is submitted pursuant to Rule 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and sets out the case that Local Planning Authority (LPA) South Gloucestershire Council (SGC) , will present at the forthcoming Public Inquiry

1.2. The Appellant has submitted an appeal against the non-determination of an outline planning application (SGC ref P22/01300/O) described in the application as follows:

*“Erection of up to 180 dwellings, a local shop and associated infrastructure (Outline) with access to be determined; all other matters reserved.”*

1.3. The application was submitted to the LPA on 23<sup>rd</sup> February 2022. Prior to submission it was agreed with the applicants that the nature and scale of the proposal was unlikely to give rise to significant environmental effects and constituted EIA development under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

1.4. The planning application was submitted in outline, with access to be determined, all other matters are reserved for future consideration.

1.5. Following the submission of the appeal, South Gloucestershire Council’s Strategic Sites Delivery Committee resolved on 3<sup>rd</sup> August 2023 that should Members have been able to determine the application, the application would have been refused. SGOC’s protocol is that should an application be decided contrary to Officer recommendation, then the application must be presented to the Spatial Planning Committee for review. This was undertaken on 8<sup>th</sup> August 2023 where Members resolved that should Members have been able to determine the application, the application would have been refused. A copy of the Committee Report, the reasons for refusal, and the relevant minutes of the meetings are attached at Appendices A, B, C and D respectively.

1.6. For ease of reference the two reasons for refusal resolved at the Strategic Sites Committee on 3<sup>rd</sup> August 2023 were:

*The adverse impacts of the proposal with regard to:*

- *Landscape Harm (significant weight),*
- *Increase reliance on car borne transport (substantial weight),*
- *Loss of Grade 3 agricultural land (limited weight)*
- *Recreational pressure on SSSI (limited weight)*
- *Conflict with Spatial Strategy (significant weight)*
- *Harm to Wickwar Conservation Area (moderate weight),*
- *Less than substantial harm to South Farm (moderate weight)*
- *Less than substantial harm to Frith Farm (limited weight)*

*significantly and demonstrably outweigh the benefits, which are:*

- *Provision of housing (significant weight),*
- *Affordable housing (significant weight),*
- *Provision of self-build plots (significant weight),*
- *Provision of new jobs (moderate weight),*
- *Other benefits (potential for a shop, redirected Public Right of Way, highway improvements and connections) (limited weight)*

*Therefore, applying paragraph 11(d)(ii) of the NPPF, planning permission should be refused.*

*2) The proposal development fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure. Such infrastructure shall include (but is not limited to) Affordable Housing; Public Transport; off-site highways works; Travel Plan measures; Education contributions to nursery, primary and secondary education and associated transport; Public Open Space; Community Infrastructure; A retail unit and Self-build/custom build homes. The proposal is therefore contrary to policy CS6 of the South Gloucestershire Core Strategy 2006-2027.*

1.7 The two reasons for refusal resolved at the Spatial Planning Committee on 8th August 2023 were:

1) *The adverse impacts of the proposal with regard to:*

- *Increase reliance on car borne transport – substantial weight,*
- *Landscape Harm – significant weight*
- *Conflict with Spatial Strategy – significant weight*
- *Loss of Grade 3 agricultural land – limited weight*
- *Recreational pressure on SSSI – limited weight*
- *Harm to Wickwar Conservation Area – moderate weight,*
- *Less than substantial harm to South Farm – Great weight*
- *Less than substantial harm to Frith Farm – Great weight*

*significantly and demonstrably outweigh the benefits of the proposal, which are:*

- *Provision of housing – significant weight,*
- *Affordable housing – significant weight,*
- *Provision of self-build plots – significant weight,*
- *Provision of new jobs – limited weight,*
- *Other benefits (potential for a shop, redirected Public Right of Way, highway improvements and connections) – limited weight*

*and therefore, applying paragraph 11(d)(ii) of the NPPF, permission should be refused.*

- 2) *The proposal development fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure. Such infrastructure shall include (but is not limited to) Affordable Housing; Public Transport; off-site highways works; Travel Plan measures; Education contributions to nursery, primary and secondary education and associated transport; Public Open Space; Community Infrastructure; A retail unit and Self-build/custom build homes. The proposal is therefore contrary to policy CS6 of the South Gloucestershire Core Strategy 2006-2027.*

- 1.8 In line with the Council's Scheme of Delegation (included at Appendix E), following the resolution of the Spatial Planning Committee on 8<sup>th</sup> August 2023, in line with legal advice from the council's barrister and in conjunction with core Committee Members and the Director of Place's approval, the weighting of the Conflict with the Spatial Strategy has been changed from 'Significant weight' to 'Limited Weight' and the Harm to the Conservation Area has been altered to 'Less than substantial harm-Great weight' to reflect the requirements of the NPPF.

The changes have made no difference to the overall view of both Committees that permission should be refused.

The ordering of the weighting for harms has been revised for ease to ensure the weighting is in descending order.

- 1.9 The appeal putative reasons for refusal should therefore read:

- 1) *The adverse impacts of the proposal with regard to:*

- *Less than substantial harm to South Farm – great weight*
- *Less than substantial harm to Frith Farm – great weight*
- *Less than substantial harm to Wickwar Conservation Area – great weight,*
- *Increase reliance on car borne transport – substantial weight,*
- *Landscape Harm – significant weight*
- *Conflict with Spatial Strategy –limited weight*
- *Loss of Grade 3 agricultural land – limited weight*
- *Recreational pressure on SSSI – limited weight*

*significantly and demonstrably outweigh the benefits of the proposal, which are:*

- *Provision of housing – significant weight,*
- *Affordable housing – significant weight,*
- *Provision of self-build plots – significant weight,*
- *Provision of new jobs – limited weight,*

- *Other benefits (potential for a shop, redirected Public Right of Way, highway improvements and connections) – limited weight*

*and therefore, applying paragraph 11(d)(ii) of the NPPF, permission should be refused.*

- 2) *The proposal development fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure. Such infrastructure shall include (but is not limited to) Affordable Housing; Public Transport; off-site highways works; Travel Plan measures; Education contributions to nursery, primary and secondary education and associated transport; Public Open Space; Community Infrastructure; A retail unit and Self-build/custom build homes. The proposal is therefore contrary to policy CS6 of the South Gloucestershire Core Strategy 2006-2027.*

- 1.10 This Statement of Case has been prepared in accordance with Procedural Guide: Planning Appeals – England (13 October 2021) and the guidance set out in Annexe F and Annexe J.
- 1.11 The Council will demonstrate that it has a 5 Year Housing Land Supply of 5.35 years.
- 1.12 The Council will demonstrate that the proposal conflicts with the Development Plan which remains the starting point for considering the proposal but the Council accepts that its Settlement Strategy is out of date, and that the Tilted Balance as set out in Paragraph 11d (ii) is engaged.
- 1.13 The Council will show that the proposed development will result in adverse impacts which significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF.

## **2. Site, Surrounding Area and Planning History**

- 2.1 The appeal site abuts the B4060 Sodbury Road to the east. The application proposes two access points in to the site to serve the development. One access point will be located to the north of Poplar Lane junction and south of the Amberley Way mini-roundabout. The other primary access point is proposed to be taken south of the Horwood Lane junction. Both of the proposed access points will be priority T-junctions.
- 2.2 The site measures 7.89 ha divided between 4 fields in agricultural use, which is grade 3b and 4 (moderate quality and poor quality respectively). The land has a varied topography ranging from 83m-90m AOD, although it is generally flat with a shallow depression running North-South in site. The boundaries are formed by a mix of hedgerows, some trees and areas without definition to a boundary. The southern boundary touches the junction at Frith Lane. A 'slither' of land is to be retained in agricultural use to the east of the site, between it and the houses which front Sodbury Road.
- 2.3 The site is in Flood Zone 1 but due to the site's topography and central running depression results in a potential surface water flooding risk (see comments on drainage later in report). The existing culvert headwall that lies within the site drains the existing run-off from the B4060 Sodbury Road.
- 2.4 There are no Public Rights of Way (PRoWs) that cross the site but several run nearby. The National Cycle Route 410 lies to the north of Wickwar and forms part of the Avon Cycleway, which connects to Bristol via the surrounding towns and villages.
- 2.5 There is a bus stop on Sodbury Road at the NE corner of the site. with services 84 & 85 which until recently connected to Yate, Wootton -Under - Edge and Chipping Sodbury. However as of the end of June 2023 these services ceased to be run by Stagecoach and a less frequent service was picked up by The Big Lemon bus company. This service runs in a circular loop (84 is clockwise; 85 is anticlockwise) taking approximately 2 hours for the full loop. The service accesses nearby villages, including Wickwar, between Yate and Wootton Under Edge. The service runs 6 times a day.
- 2.6 Additionally, West of England Combined Authority has introduced Dynamic Demand Responsive Transport (DDRT) bus services within South Gloucestershire. This is essentially a dial-a-bus service, where, using an app on a smart phone one can request a bus. Which will arrive at a designated bus stop to transport the requester to a transport hub (for example Yate Train Station).
- 2.7 The site and its surroundings fall within the north-eastern extent of NCA 118 'Bristol, Avon Valleys and Ridges' National Character Area, which encompasses the City of Bristol at its core and the surrounding area to

the northeast, south and south west - including the Chew and Yeo valleys, Keynsham, Clevedon, Portishead and parts of the Cotswolds and Mendip Hills Areas of Outstanding Natural Beauty. The site is situated wholly within Landscape Character Area (LCA) 5 – 'Wickwar Ridge and Vale', described briefly as "a diverse undulating landscape covered with a mix of farmland, woodland and common."

- 2.8 The site does not contain any Heritage Assets but lies outside but within the wider rural setting of the Wickwar Conservation Area (approx. 350m to the north) and there is intervisibility between parts of the Conservation Area and the site. The site also lies within the setting of Grade 2 listed South Farmhouse (approx. 40m to the north) and has an historic and functional link with it and Grade 2\* Listed Frith Farmhouse (approx. 440m to the southwest) and makes a contribution to its historic countryside setting.
- 2.9 Nearby facilities are limited but the site is within a 15- 20 minute walk of a Pub, a Coffee Shop; a Social Club; a Church; Alexander Hosea Primary School with Wickwar Playing Fields being a 10-minute walk. Yate, Chipping Sodbury, Cromhall and Charfield are all within a 10-minute drive time.
- 2.10 The application is supported by a tree survey which identifies a total of 23 individual trees, 4 tree groups and 13 hedges. Of these, it was concluded there were; 1 Category A Tree; 9 Category B Trees & 2 Category B Tree Groups; 10 Category C Trees & 2 Category C tree groups and 2 Category U Trees. Trees to be removed are 3 Category C trees at the southern site entrance and 2 TPO willow trees to form the Northern entrance.
- 2.11 An extended phase 1 habitat survey has been undertaken by EDP in support of the application. It concluded that the existing habitats of arable land and agriculturally improved grassland predominant within the site are considered to be of low ecological value. However, the existing native hedgerow network and mature trees are considered to be of good ecological value with potential to support protected and notable species. The hedges are to remain, with breakthroughs just where the roads are required.
- 2.12 A low voltage overhead transmission line crosses the site at the north, which will be undergrounded as part of the proposals. The length of undergrounding would be determined at reserved matters stage, but could be up to 100m. There is also a high-pressure gas pipeline in the south-west corner of the site and the HSE has outlined an Outer Zone and no development should take place in that part of the site.

#### Planning History

- 2.13 The only planning history relating directly to this appeal site is the screening opinion associated with the application:



- P21/030/SCR – Screening Opinion for the erection of up to 180 dwellings – EIA Not Required.

### 3. Planning Policy Context

3.1. The Planning Policy Context is as follows:

#### ***Statutory Context***

- Wildlife & Countryside Act 1981 (As Amended)
- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Countryside and Rights of Way Act 2000
- Habitats Directive 1992 (Protected Species)
- Planning and Compulsory Purchase Act 2004
- Natural Environment & Rural Communities (NERC) Act 2006
- Town and Country Planning (Consultation) (England) Direction 2009
- Habitat Regulations 2010
- Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017

#### ***National Guidance***

- National Planning Policy Framework July 2021
- National Planning Practice Guidance
- The Community Infrastructure Levy Regulation 2010
- National Planning Practice Guidance – Conserving and Enhancing the Historic Environment.
- Managing Significance in Decision-Taking in the Historic Environment (GPA 2)
- The Setting of Heritage Assets (GPA 3)

#### **Development Plan**

3.2. South Gloucestershire Local Plan Core Strategy Adopted December 2013

- CS1 High Quality Design
- CS2 Green Infrastructure
- CS4a Presumption in Favour of Sustainable Development
- CS5 Location of development
- CS6 Infrastructure and Developer Contributions
- CS8 Improving Accessibility
- CS9 Managing the Environment and Heritage
- CS14 Town Centres and Retail
- CS15 Distribution of Housing

- CS16 Housing Density
- CS17 Housing Diversity
- CS18 Affordable Housing
- CS23 Community infrastructure and cultural activity
- CS24 Green Infrastructure, Sport and Recreation Standards
- CS34 Rural Areas

### 3.3. South Gloucestershire Local Plan: Policies, Sites and Places Plan Adopted November 2017

- PSP1 (Local distinctiveness)
- PSP2 (Landscape)
- PSP3 (Trees and woodland)
- PSP6 (Onsite Renewable and Low Carbon Energy)
- PSP8 (Residential Amenity)
- PSP9 (Health Impact Assessments)
- PSP10 (Active Travel Routes)
- PSP11 (Transport Impact Management)
- PSP16 (Parking Standards)
- PSP17 (Heritage Assets and the Historic Environment)
- PSP18 (Statutory Wildlife Sites: European Sites and Sites of Special Scientific Interest (SSSIs))
- PSP19 (Wider Biodiversity)
- PSP20 (Flood Risk, Surface Water and Watercourse Management)
- PSP21 (Environmental Pollution and Impacts)
- PSP28 (Rural Economy)
- PSP 32 (Local Centres, Parades and Facilities)
- PSP37 (Internal Space and Accessibility Standards for Affordable Dwellings)
- PSP40 (Residential Development in the Countryside)
- PSP42 (Self Build & Custom House Building)
- PSP43 (Private Amenity Space Standards)
- PSP44 (Open Space, Sport and Recreation)

### 3.4. Supplementary Planning Guidance

- The South Gloucestershire Design Checklist SPD (adopted)
- The South Gloucestershire Waste SPD (adopted)
- The South Gloucestershire Residential Parking Standards SPD (adopted)
- The South Gloucestershire Affordable Housing and Extra Care SPD (adopted)
- The South Gloucestershire Revised Landscape Character Assessment SPD (adopted)
- The South Gloucestershire CIL Charging Schedule and the CIL and S106 SPD (adopted)
- The South Gloucestershire Biodiversity Action Plan (adopted)

- 3.5. The emerging development plan comprises the:
- 3.6. South Gloucestershire new Local Plan (SGCnLP) is at an early (Regulation 18) stage in its preparation. The current SGC Local Plan Delivery Programme April 2023 Update) outlines the status and production programme for these documents. The current Local Plan Delivery Programme (LPDP) covers the period October 2022 – September 2025 and replaces the Local Plan Delivery Programme 2022-2025 published in October 2022.
- 3.7. In May 2022 the West of England Combined Authority (WECA) Mayor made the decision to halt work on the WECA Spatial Development Strategy (SDS). Since the halting of work on the SDS, SGC has confirmed, as per its Cabinet decision on 10th October 2022, that it will be developing strategic policies through the South Gloucestershire Local Plan and in so doing: will continue to co-operate and work with the other combined authority Unitary Authorities in preparing their respective Local Plans, that the three Local Plans will provide the strategic planning framework for the WECA area; and that the issue of housing need will now be addressed through these individual Local Plans. These formal arrangements reflect the primary functional relationships between adjoining authorities on strategic planning and transport matters.
- 3.8. The new SGLP will be a development plan document (DPD) covering the whole administrative area of the District for the plan period 2025 to 2040. The Plan will replace the Core Strategy and the Policies, Sites and Places Plan. The South Gloucestershire Local Plan is at the pre-submission stage having completed two Regulation 18 consultations in 2020 and 2021/22. A further informal consultation stage is to be held in Autumn 2023. This will consult on strategy options that the Council intends to identify to accommodate the number and location of homes and jobs that are needed up to 2040.
- 3.9. The 2022 Authority's Monitoring Report is published on the Council's web page. This document confirms that as of March 2023, the Council has a housing land supply of 5.35 years.

#### **4. The Council's Case**

- 4.1. The Council will demonstrate that given the Tilted Balance is engaged that the adverse impacts of granting planning permission for the appeal proposal, would significantly and demonstrably outweigh its benefits..

##### **Heritage**

- 4.2. The natural and historic environment is a finite and irreplaceable resource, and the protection of heritage assets is a priority nationally, as

well as one for the Council. The Council will show that the appeal proposal will result in less than substantial harm (at the lower end of the scale) to the setting and significance of the Grade II\* listed Frith Farm and Grade II Listed South Farm. It will also show that the proposal will cause less than substantial harm to the Wickwar Conservation Area (at a moderate level). Great weight needs to be given to these harms.

#### **Increased Reliance on Car-Borne Journeys.**

- 4.3. The Council will show that the current bus provision is both poor and uncertain and that this will essentially be a car borne development. Although there is currently a bus service (Run by The Big Lemon Bus Company) that runs through Wickwar, it is infrequent and has only short-term funding. Dynamic Demand Responsive Transport (DDRT known as Westlink) is early on in a 2-year trial and there is no certainty of any future funding. The bus service cannot be relied upon to provide a viable alternative to the private car. Residents of the proposed houses would therefore be reliant on cars to access the majority of services such as doctors, employment etc.
- 4.4. Such a reliance on the private car is contrary to Section 9 of the NPPF which addresses promoting Sustainable Transport and also contrary to policies PSP11 (Transport Impact Management) and CS4A (Presumption in Favour of Sustainable Development). The fact that the proposal will be car borne is a substantial adverse impact of the proposal.

#### **Landscape**

- 4.5 The Council will argue that the proposed outline scheme fails to demonstrate that the development can be satisfactorily assimilated into the landscape and that the 3 blocks of proposed housing as set out in the masterplan encroach into the surrounding countryside. The design of the western and southern site boundary treatments does not demonstrate delivery of a well-designed articulated green edge/buffer between the proposed housing and wider countryside facilitating the softened transition to the adjacent countryside as cited in the submitted LVA.
- 4.6 The development does not respect the historic development morphology of Wickwar and its established built linear form along the B4060 and will effectively form an outlier of housing. Development of the whole site will result in a noticeable south westerly projection which would have a significant and adverse impact on the rural character of Wickwar's westerly landscape setting.
- 4.7 The proposed development will result in the loss of existing open views across the southern part of the site to the countryside surrounding Wickwar, which provides connectivity between the village and its landscape setting; and also, will impact on the availability of existing

views both towards and from listed buildings.

- 4.8 The submitted Masterplan does not demonstrate the incorporation of sufficient landscape measures, including and appropriate distribution and scale of planting of trees across the whole site, with space to mature to full height to provide appropriate screening in views and form new structural/focus landscape features. In any event tree planting around the margins of the housing will not be able to overcome the fundamental landscape harm caused both within and outside the site by its development for 180 houses.

### **Spatial Strategy/Settlement Boundaries**

- 4.9 The Council will demonstrate that the site is located outside of the settlement boundary of Wickwar, is not included in the locational strategy of the Core Strategy, and as such is contrary to the development plan, particularly where it relates to Wickwar. The adopted Core Strategy identified the appropriate and commensurate level of growth, which did not include growth within the villages. Wickwar has already grown by 170 dwellings with the new developments at Poplar and Horwood Lanes. Additional significant future growth at Wickwar needs to be carefully planned through the plan-led approach.

### **Agricultural Land**

- 4.10 The proposal will use up 7.89 ha of Grade 3b and Grade 4 agricultural land which is an adverse impact of the proposal which attracts limited weight.

### **Recreational Pressure on Local SSSIs**

- 4.11 The Council will demonstrate that, notwithstanding the re-routing of Public Right of Way (PRoW) LWR/25, an increase in residents in the village of Wickwar is likely to increase the number of walkers who use the nearby SSSIs and, in particular, Lower Woods, which, according to Natural England, is already suffering from damage from increased usage.

### **Section 106**

- 4.12 In the absence of a Section 106 legal agreement to secure the following:
- 1) On-site public open space, allotments and a contribution towards off-site sports facilities
  - 2) The delivery of self-build or custom plots
  - 3) Affordable Housing of a suitable tenure mix and unit types
  - 4) Off-site highway works and Travel Plan.
  - 5) Contributions to Bus Services
  - 6) Contributions for Education purposes in relation to Nursery, Primary, Secondary education and Secondary School transport.

- 7) Contributions to Community Facilities
- 8) Provision of a retail unit.

The Council will argue that the application fails to provide sufficient mitigation to address the impacts of the development. However, it is hoped that a suitably worded S106 agreement together with agreed conditions can be agreed in advance of the Inquiry.

## **5. Documents To Which the Council Will Refer**

- 5.1. The Council will refer to the following documents:
- Town and Country Planning Act 1990
  - National Planning Policy Framework (NPPF)
  - National Planning Policy Guidance (NPPG)
  - Planning (Listed Buildings and Conservation Areas) Act 1990
  - Planning and Compulsory Purchase Act 2004
  - Town and Country Planning (Consultation) (England) Direction 2009
  - Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
  - Town and Country Planning (Environmental Impact Assessment) Regulations 2017
  - Managing Significance in Decision-Taking in the Historic Environment (GPA 2)
  - The Setting of Heritage Assets (GPA 3)
  - South Gloucestershire Local Plan Core Strategy (December 2013)
  - South Gloucestershire Policies, Sites & Places Plan (November 2017)
  - The South Gloucestershire CIL Charging Schedule and the CIL and S106 SPD (adopted)
  - Land to West of Park Farm Appeal (APP/P0119/W/21/3288019) and Land South of Badminton Road, Old Sodbury (APP/P0119/W/22/3303905)
  - The South Gloucestershire Annual Monitoring Report December 2022
- 5.2. The Council reserves the right to refer to any additional documents which may be relevant during the appeal proceedings.

### **Appendices**

APPENDIX A – Strategic Sites Committee Report – See attached document.

APPENDIX B - Strategic Sites Committee Minutes - See attached document.

APPENDIX C – Spatial Planning Committee Report - See attached document.

APPENDIX D – Spatial Planning Committee Minutes - See attached document.

APPENDIX E – Scheme of Delegation - See attached document

